

(2) The employee's paying agency is directed by an administrative or judicial order to refund amounts deducted from his or her current pay.

(b) Refunds are not to bear any interest unless the law applicable to that particular debt specifically requires or permits a stated interest amount on refunds.

§ 1261.606 Salary offset request by a creditor agency other than NASA (the current paying agency).

(a) *Format of the request.* Upon completion of the procedures established by the creditor agency under 5 U.S.C. 5514, the creditor agency must:

(1) Certify, in writing, that the employee owes the debt, the amount and basis of the debt, the date on which payment(s) is/are due, the date the Government's right to collect the debt first accrued, and that the creditor agency's regulations implementing 5 U.S.C. 5514 have been approved by OPM;

(2) If the collection must be made in installments, the creditor agency must also advise NASA of the number of installments to be collected, the amount of each installment, and the commencing date of the first installment, if a date other than the next officially established pay period is required; and

(3) Unless the employee has consented to the salary offset in writing or signed a statement acknowledging receipt of the required procedures and the writing or statement is attached to the debt claim request, the creditor agency must also indicate the action(s) taken under 5 U.S.C. 5514(a)(2) and give the date(s) the action(s) was/were taken.

(b) *Limitation period.* The creditor agency may not initiate offset to collect a debt more than 10 years after the Government's right to collect the debt first accrued, except as provided in 14 CFR 1261.506, which implements 4 CFR 102.3(b)(3).

(c) *Employees who are separating or have separated—(1) Employees who are in the process of separating.* If the employee is in the process of separating, the creditor agency must submit its debt claim to the employee's paying agency for collection as provided in 5 CFR 550.1104(1) of the OPM regulations

(14 CFR 1261.603(f)) for "liquidation from final check." NASA must then certify the total amount of its collection and notify the creditor agency and the employee as provided in paragraph (c)(3) of this section. If NASA is aware that the employee is entitled to payments from the Civil Service Retirement and Disability Fund, or other similar payments, it should notify the creditor agency and forward the copy of the debt claim and certification to the agency responsible for making such payments as notice that a debt is outstanding. However, the creditor agency, not NASA, must submit a properly certified claim to the agency responsible for making such payments before collection can be made.

(2) *Employees who have already separated.* If the employee is already separated and all payments due from NASA have been paid, NASA must return the claim to the creditor agency for any further collection, indicating the employee's date of separation and the current employment and mailing address(es), if known.

(3) Employee who transfers from NASA to another Federal agency.

(i) *Certification of amount collected.* If, after the creditor agency has submitted the debt claim to NASA, the employee transfers to another Federal agency before the debt is collected in full, NASA must then certify the total amount of the collection made on the debt. A copy of the certification should be furnished the employee, and another copy furnished to the creditor agency along with notice of the employee's transfer.

(ii) *Official personnel folder insertion; new paying agency.* Information on the debt claim must be inserted in the employee's official personnel folder along with a copy of the certification of the amount which has been collected. Upon receiving the official personnel folder, the new paying agency must resume the collection from the employee's current pay account and notify the employee and the creditor agency of the resumption. It will not be necessary for the creditor agency to repeat the due process procedures described by 5 U.S.C. 5514 of this subpart in order to resume the collection. However, it will be the responsibility of the creditor

agency to review the debt upon receiving NASA's notice of the employee's transfer to make sure the collection is resumed by the new paying agency.

(d) *Processing the debt claim upon receipt*—(1) *Incomplete claim*. If NASA receives incomplete debt claim information, it must return the request with a notice that procedures under 5 U.S.C. 5514 and this subpart must be provided and complete debt claim information received before action will be taken to collect from the employee's current pay account.

(2) *Complete claim*. If NASA receives a properly documented debt claim, deductions should be scheduled to begin prospectively at the next officially established pay interval. A copy of the debt claim request must be given to the debtor, along with notice of the date deductions will commence if different from that stated on the debt claim request.

(3) NASA is not required or authorized to review the merits of the creditor agency's determination with respect to the amount or validity of the debt as stated in the debt claim request.

§ 1261.607 Obtaining the services of a hearing official.

(a) When the debtor does not work for the creditor agency and the creditor agency cannot provide a prompt and appropriate hearing before an administrative law judge or before a hearing official furnished pursuant to another lawful arrangement, the creditor agency may contact an agent of the paying agency designated in appendix A of 5 CFR part 581 to arrange for a hearing official, and the paying agency must then cooperate as provided by 4 CFR 102.1 and provide a hearing official.

(b) When the debtor works for the creditor agency, the creditor agency may contact any agent (of another agency) designated in appendix A of 5 CFR part 581 to arrange for a hearing official. Agencies must then cooperate as required by 4 CFR 102.1 and provide a hearing official.

PART 1262—EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

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AUTHORITY: 5 U.S.C. 504; 42 U.S.C. 2473(c)(1).

SOURCE: 51 FR 15311, Apr. 23, 1986, unless otherwise noted.

Subpart 1262.1—General Provisions

§ 1262.101 Purpose of these rules.

(a) The pertinent provisions of the Equal Access to Justice Act at 5 U.S.C. 504 (hereinafter "the Act") provide for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (called "adversary adjudications"). An eligible party may receive an award when it prevails, unless it has unreasonably protracted